

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE**

In the Matter of Brian Edmond Bath

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above matter came on for a Hearing before Administrative Law Judge (ALJ) Richard C. Luis on April 2, 2007 at the Office of Administrative Hearings in Minneapolis. Christopher M. Kaisershot, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared on behalf of the Minnesota Department of Commerce ("Department"). There was no appearance by or on behalf of the Respondent, Brian Edmond Bath ("Licensee", "Respondent"). The hearing record closed at the conclusion of the Hearing on April 2, 2007.

STATEMENT OF ISSUE

Whether disciplinary action should be taken against the Insurance Producer's License of the Respondent for violating Minn. Stat. §§ 45.027, subds. 7(a)(2), 7(a)(3), and 7(a)(4), 60K.43, subds. 1(1), 1(3), 1(6), and 1(8), and 60K.54, subds. 1 and 2? The violations alleged are for providing incorrect, misleading, incomplete or materially untrue information on his license application, and otherwise obtaining his Resident Insurance Producer's License through misrepresentations and fraud, for pleading guilty to a felony involving moral turpitude and engaging in acts that demonstrate incompetence, untrustworthiness, or financial responsibility, and for failure to notify the Department of a criminal prosecution in the State of Colorado and an administrative action in the State of Wisconsin.

Based on all the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On March 22, 2007, a Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension and Statement of Charges was mailed to the Respondent at his last known addresses – 505 Diamond Drive, Hudson, WI 54016, and 6701 Upper Afton Road, St. Paul, MN 55125. The Notice scheduled a Hearing for April 2, 2007.

2. The Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension and Statement of Charges contains the following language, on page 4:

1. Respondent's failure to appear at the ... hearing, or failure to comply with any order of the Administrative Law Judge, may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that Respondent may be subject to discipline by the Commissioner, including revocation, suspension, or censure.

3. The Licensee/Respondent did not appear at the April 2, 2007 Hearing. He did not contact the Department, the Office of the Attorney General or the Administrative Law Judge to request a continuance. No Notice of Appearance was filed by the Licensee/Respondent.

4. The allegations as set forth in the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and Statement of Charges are deemed proved and are incorporated into these Findings by reference.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction herein pursuant to Minn. Stat. §§ 14.50, 45.027, subd. 7(b) and 60K.43, subd. 2.

2. The Licensee/Respondent was given timely and proper notice of the Hearing in this matter, and the Department has complied with all procedural requirements of law and rule.

3. Under Minn. R. 1400.6000, the Licensee/Respondent is in default as a result of his failure to appear at the scheduled Prehearing Conference.

4. Under Minn. R. 1400.6000, when a party defaults, the allegations and issues set out in the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and Statement of Charges may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true, and they are deemed proved.

5. Based on the facts set out in the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and Statement of Charges, the Licensee/Respondent has violated Minn. Stat. §§ 45.027, 60K.43, and 60K.54, as specified in the "Statement of Issue" portion of this Report. As a result, he is subject to discipline by the Minnesota Department of Commerce.

6. An Order by the Commissioner of Commerce imposing disciplinary action against the Licensee/Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7(a)(1).

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that appropriate disciplinary action be taken against Brian Edmond Bath.

Dated this 30th day of April, 2007

/s/ Richard C. Luis
RICHARD C. LUIS
Administrative Law Judge

Reported: Default

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commerce may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Kevin Murphy, Deputy Commissioner, Minnesota Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

R. C. L.